

AMENDMENTS TO LB 358

Introduced by Hudkins, 21

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. For purposes of sections 1 to 8 of this act:

4 (1) Director means the Director of Motor Vehicles;

5 (2) Division means the Division of Motor Carrier Services
6 of the Department of Motor Vehicles; and

7 (3) Unified carrier registration plan and agreement means
8 the plan and agreement established and authorized pursuant to 49
9 U.S.C. 14504, as such section existed on January 1, 2007.

10 Sec. 2. (1) On and after the date the United States
11 Secretary of Transportation establishes the Unified Carrier
12 Registration System in accordance with the Unified Carrier
13 Registration Act of 2005, 49 U.S.C. 13908, as such act existed
14 on January 1, 2007, the director may designate a date to begin
15 enforcement of such act in this state.

16 (2) The director may participate in the unified carrier
17 registration plan and agreement and may file on behalf of this
18 state the plan required by such plan and agreement.

19 Sec. 3. (1) On and after the date designated by the
20 director pursuant to section 2 of this act, no foreign or domestic
21 motor carrier, private carrier, leasing company, broker, or freight
22 forwarder shall operate any motor vehicle on a highway of this
23 state or in interstate commerce without first being registered

1 in this state or another jurisdiction pursuant to the unified
2 carrier registration plan and agreement and having paid all fees
3 required under the unified carrier registration plan and agreement
4 for such registration. A motor carrier, private carrier, leasing
5 company, broker, or freight forwarder with its principal place of
6 business in this state shall register in this state with and pay
7 its required registration fees to the division. The division shall
8 remit the fees to the State Treasurer for credit to the General
9 Fund.

10 (2) On and after the date designated by the director
11 pursuant to section 2 of this act, the division may accept the
12 registration of and fees required from a foreign or domestic
13 motor carrier, private carrier, leasing company, broker, or freight
14 forwarder that maintains an office in this state but does not
15 have its principal place of business in the United States or that
16 maintains an office in this state but has its principal place of
17 business in another jurisdiction that does not participate in the
18 unified carrier registration plan and agreement. The division shall
19 remit the fees to the State Treasurer for credit to the General
20 Fund.

21 Sec. 4. The single state insurance registration system,
22 the previous registration system for common, contract, and private
23 carriers, and sections 75-348 to 75-358 shall terminate on the date
24 designated by the director pursuant to section 2 of this act.

25 Sec. 5. On and after the date designated by the director
26 pursuant to section 2 of this act, the director may adopt and
27 promulgate rules and regulations to carry out the unified carrier

1 registration plan and agreement.

2 Sec. 6. On and after the date designated by the director
3 pursuant to section 2 of this act, the director may prescribe the
4 appropriate forms and implement the appropriate electronic systems
5 to allow filings with the division pursuant to the unified carrier
6 registration plan and agreement.

7 Sec. 7. On and after the date designated by the director
8 pursuant to section 2 of this act, any foreign or domestic motor
9 carrier, private carrier, leasing company, broker, or freight
10 forwarder operating any motor vehicle in violation of sections 1
11 to 8 of this act, any rule or regulation adopted and promulgated
12 pursuant to such sections, or any order of the division issued
13 pursuant to such sections is guilty of a Class IV misdemeanor
14 and shall also be subject to section 75-369.03. Each day of the
15 violation constitutes a separate offense.

16 Sec. 8. Sections 1 to 8 of this act do not apply to
17 a foreign or domestic motor carrier, private carrier, leasing
18 company, broker, or freight forwarder, including a transporter of
19 waste or recyclable materials, engaged exclusively in intrastate
20 commerce.

21 Sec. 9. Section 60-3,137, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 60-3,137 Each insurance company doing business in this
24 state shall provide information shown on each automobile liability
25 policy issued in this state as required by the department pursuant
26 to sections 60-3,136 to 60-3,139 for inclusion in the motor
27 vehicle insurance data base in a form and manner acceptable to

1 the department. Any person who qualifies as a self-insurer under
2 sections 60-562 to 60-564 or any person who provides financial
3 responsibility under sections 75-348 to 75-358 or sections 1 to 8
4 of this act shall not be required to provide information to the
5 department for inclusion in the motor vehicle insurance data base.

6 Sec. 10. Section 60-3,205, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 60-3,205 (1) (a) The director may suspend, revoke, cancel,
9 or refuse to issue or renew a registration certificate under the
10 International Registration Plan Act:

11 (i) If the applicant or certificate holder has had his or
12 her license issued under the International Fuel Tax Agreement Act
13 revoked or the director refused to issue or refused to renew such
14 license; or

15 (ii) If the applicant or certificate holder is in
16 violation of sections 75-348 to 75-358 or sections 1 to 8 of
17 this act.

18 (b) Prior to taking action under this section, the
19 director shall notify and advise the applicant or certificate
20 holder of the proposed action and the reasons for such action in
21 writing, by registered or certified mail, to his or her last-known
22 business address as shown on the application for the certificate
23 or renewal. The notice shall also include an advisement of the
24 procedures in subdivision (c) of this subsection.

25 (c) The applicant or certificate holder may, within
26 thirty days after the date of the mailing of the notice,
27 petition the director for a hearing to contest the proposed

1 action. The hearing shall be commenced in accordance with the rules
2 and regulations adopted and promulgated by the department. If a
3 petition is filed, the director shall, within twenty days after
4 receipt of the petition, set a hearing date at which the applicant
5 or certificate holder may show cause why the proposed action should
6 not be taken. The director shall give the applicant or certificate
7 holder reasonable notice of the time and place of the hearing. If
8 the director's decision is adverse to the applicant or certificate
9 holder, the applicant or certificate holder may appeal the decision
10 in accordance with the Administrative Procedure Act.

11 (d) Except as provided in subsections (2) and (3) of this
12 section, the filing of the petition shall stay any action by the
13 director until a hearing is held and a final decision and order is
14 issued.

15 (e) Except as provided in subsections (2) and (3) of this
16 section, if no petition is filed at the expiration of thirty days
17 after the date on which the notification was mailed, the director
18 may take the proposed action described in the notice.

19 (f) If, in the judgment of the director, the applicant or
20 certificate holder has complied with or is no longer in violation
21 of the provisions for which the director took action under this
22 subsection, the director may reinstate the registration certificate
23 without delay.

24 (2) (a) The director may suspend, revoke, cancel, or
25 refuse to issue or renew a registration certificate under the
26 International Registration Plan Act or a license under the
27 International Fuel Tax Agreement Act if the applicant, licensee, or

1 certificate holder has issued to the department a check or draft
2 which has been returned because of insufficient funds, no funds, or
3 a stop-payment order. The director may take such action no sooner
4 than seven days after the written notice required in subdivision
5 (1)(b) of this section has been provided. Any petition to contest
6 such action filed pursuant to subdivision (1)(c) of this section
7 shall not stay such action of the director.

8 (b) If the director takes an action pursuant to
9 this subsection, the director shall reinstate the registration
10 certificate or license without delay upon the payment of certified
11 funds by the applicant, licensee, or certificate holder for
12 any fees due and reasonable administrative costs, not to exceed
13 twenty-five dollars, incurred in taking such action.

14 (c) The rules, regulations, and orders of the director
15 and the department that pertain to hearings commenced in accordance
16 with this section and that are in effect prior to March 17,
17 2006, shall remain in effect, unless changed or eliminated by the
18 director or the department, except for those portions involving a
19 stay upon the filing of a petition to contest any action taken
20 pursuant to this subsection, in which case this subsection shall
21 supersede those provisions.

22 (3) Any person who receives notice from the director
23 of action taken pursuant to subsection (1) or (2) of this
24 section shall, within three business days, return such registration
25 certificate and license plates to the department as provided in
26 this section. If any person fails to return the registration
27 certificate and license plates to the department, the department

1 shall notify the Nebraska State Patrol that any such person is in
2 violation of this section.

3 Sec. 11. Section 66-1406.02, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 66-1406.02 (1) The director may suspend, revoke, cancel,
6 or refuse to issue or renew a license under the International Fuel
7 Tax Agreement Act:

8 (a) If the applicant's or licensee's registration
9 certificate issued pursuant to the International Registration Plan
10 Act has been suspended, revoked, or canceled or the director
11 refused to issue or renew such certificate;

12 (b) If the applicant or licensee is in violation of
13 sections 75-348 to 75-358 or sections 1 to 8 of this act;

14 (c) If the applicant's or licensee's security has been
15 canceled;

16 (d) If the applicant or licensee failed to provide
17 additional security as required;

18 (e) If the applicant or licensee failed to file any
19 report or return required by the motor fuel laws, filed an
20 incomplete report or return required by the motor fuel laws, did
21 not file any report or return required by the motor fuel laws
22 electronically, or did not file a report or return required by the
23 motor fuel laws on time;

24 (f) If the applicant or licensee failed to pay taxes
25 required by the motor fuel laws due within the time provided;

26 (g) If the applicant or licensee filed any false report,
27 return, statement, or affidavit, required by the motor fuel laws,

1 knowing it to be false;

2 (h) If the applicant or licensee would no longer be
3 eligible to obtain a license; or

4 (i) If the applicant or licensee committed any other
5 violation of the International Fuel Tax Agreement Act or the rules
6 and regulations adopted and promulgated under the act.

7 (2) Prior to taking any action pursuant to subsection
8 (1) of this section, the director shall notify and advise the
9 applicant or licensee of the proposed action and the reasons for
10 such action in writing, by registered or certified mail, to his
11 or her last-known business address as shown on the application
12 or license. The notice shall also include an advisement of the
13 procedures in subsection (3) of this section.

14 (3) The applicant or licensee may, within thirty days
15 after the mailing of the notice, petition the director in writing
16 for a hearing to contest the proposed action. The hearing shall be
17 commenced in accordance with the rules and regulations adopted and
18 promulgated by the Department of Motor Vehicles. If a petition is
19 filed, the director shall, within twenty days after receipt of the
20 petition, set a hearing date at which the applicant or licensee
21 may show cause why the proposed action should not be taken. The
22 director shall give the applicant or licensee reasonable notice of
23 the time and place of the hearing. If the director's decision is
24 adverse to the applicant or licensee, the applicant or licensee may
25 appeal the decision in accordance with the Administrative Procedure
26 Act.

27 (4) Except as provided in subsection (2) of section

1 60-3,205 and subsection (8) of this section, the filing of the
2 petition shall stay any action by the director until a hearing is
3 held and a final decision and order is issued.

4 (5) Except as provided in subsection (2) of section
5 60-3,205 and subsection (8) of this section, if no petition is
6 filed at the expiration of thirty days after the date on which the
7 notification was mailed, the director may take the proposed action
8 described in the notice.

9 (6) Except as provided in subsection (2) of section
10 60-3,205 and subsection (8) of this section, if, in the judgment of
11 the director, the applicant or licensee has complied with or is no
12 longer in violation of the provisions for which the director took
13 action under this section, the director may reinstate the license
14 without delay. An applicant for reinstatement, issuance, or renewal
15 of a license within three years after the date of suspension,
16 revocation, cancellation, or refusal to issue or renew shall submit
17 a fee of one hundred dollars to the director. The director shall
18 remit the fee to the State Treasurer for credit to the Highway Cash
19 Fund.

20 (7) Suspension of, revocation of, cancellation of, or
21 refusal to issue or renew a license by the director shall not
22 relieve any person from making or filing the reports or returns
23 required by the motor fuel laws in the manner or within the time
24 required.

25 (8) Any person who receives notice from the director of
26 action taken pursuant to subsection (1) of this section shall,
27 within three business days, return such registration certificate

1 and license plates issued pursuant to section 60-3,198 to the
2 department. If any person fails to return the registration
3 certificate and license plates to the department, the department
4 shall notify the Nebraska State Patrol that any such person is in
5 violation of this section.

6 Sec. 12. Section 75-302, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 75-302 For purposes of sections 75-301 to 75-322 and in
9 all rules and regulations adopted and promulgated by the commission
10 pursuant to such sections, unless the context otherwise requires:

11 (1) Carrier enforcement division means the carrier
12 enforcement division of the Nebraska State Patrol or the Nebraska
13 State Patrol;

14 (2) Certificate means a certificate of public convenience
15 and necessity issued under Chapter 75, article 3, to common
16 carriers by motor vehicle;

17 (3) Civil penalty means any monetary penalty assessed by
18 the commission or carrier enforcement division due to a violation
19 of Chapter 75, article 3, or section 75-126 as such section applies
20 to any person or carrier specified in Chapter 75, article 3; any
21 term, condition, or limitation of any certificate or permit issued
22 pursuant to Chapter 75, article 3; or any rule, regulation, or
23 order of the commission, the Division of Motor Carrier Services,
24 or the carrier enforcement division issued pursuant to Chapter 75,
25 article 3;

26 (4) Commission means the Public Service Commission;

27 (5) Common carrier means any person who or which

1 undertakes to transport passengers or household goods for the
2 general public in intrastate commerce by motor vehicle for hire,
3 whether over regular or irregular routes, upon the highways of this
4 state;

5 (6) Contract carrier means any motor carrier which
6 transports passengers or household goods for hire other than
7 as a common carrier designed to meet the distinct needs of each
8 individual customer or a specifically designated class of customers
9 without any limitation as to the number of customers it can serve
10 within the class;

11 (7) Division of Motor Carrier Services means the Division
12 of Motor Carrier Services of the Department of Motor Vehicles;

13 (8) Escort services means an attendant or caregiver
14 accompanying a minor or persons who are physically, mentally,
15 or developmentally disabled and unable to travel or wait without
16 assistance or supervision;

17 (9) Highway means the roads, highways, streets, and ways
18 in this state;

19 (10) Household goods means personal effects and property
20 used or to be used in a dwelling, when a part of the equipment
21 or supply of such dwelling, and similar property as the commission
22 may provide by regulation if the transportation of such effects or
23 property, is:

24 (a) Arranged and paid for by the householder, including
25 transportation of property from a factory or store when the
26 property is purchased by the householder with the intent to use in
27 his or her dwelling; or

1 (b) Arranged and paid for by another party;

2 (11) Intrastate commerce means commerce between any place
3 in this state and any other place in this state and not in part
4 through any other state;

5 (12) Motor carrier means any person other than a
6 regulated motor carrier who or which owns, controls, manages,
7 operates, or causes to be operated any motor vehicle used to
8 transport passengers or property over any public highway in this
9 state;

10 (13) Motor vehicle means any vehicle, machine, tractor,
11 trailer, or semitrailer propelled or drawn by mechanical power
12 and used upon the highways in the transportation of passengers
13 or property but does not include any vehicle, locomotive, or car
14 operated exclusively on a rail or rails;

15 (14) Permit means a permit issued under Chapter 75,
16 article 3, to contract carriers by motor vehicle;

17 (15) Person means any individual, firm, partnership,
18 limited liability company, corporation, company, association,
19 or joint-stock association and includes any trustee, receiver,
20 assignee, or personal representative thereof;

21 (16) Private carrier means any motor carrier which
22 owns, controls, manages, operates, or causes to be operated a
23 motor vehicle to transport passengers or property to or from
24 its facility, plant, or place of business or to deliver to
25 purchasers its products, supplies, or raw materials (a) when such
26 transportation is within the scope of and furthers a primary
27 business of the carrier other than transportation and (b) when

1 not for hire. Nothing in sections 75-301 to 75-322 shall apply to
2 private carriers except sections ~~75-307 to 75-307.03~~ 1 to 8 of this
3 act as they apply to private carriers; and

4 (17) Regulated motor carrier means any person who or
5 which owns, controls, manages, operates, or causes to be operated
6 any motor vehicle used to transport passengers, other than those
7 excepted under section 75-303, or household goods over any public
8 highway in this state.

9 Sec. 13. Section 75-307, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 75-307 (1) ~~Intrastate~~ Certificated intrastate motor
12 carriers, including common~~7~~ and contract~~7~~ and private carriers,
13 shall comply with reasonable rules and regulations prescribed
14 by the commission governing the filing with the commission, the
15 approval of the filings, and the maintenance of proof at such
16 carrier's principal place of business of surety bonds, policies of
17 insurance, qualifications as a self-insurer, or other securities
18 or agreements, in such reasonable amount as required by the
19 commission, conditioned to pay, within the amount of such surety
20 bonds, policies of insurance, qualifications as a self-insurer,
21 or other securities or agreements, any final judgment recovered
22 against such motor carrier for bodily injuries to or the death of
23 any person resulting from the negligent operation, maintenance,
24 or use of motor vehicles under such certificate or permit or for
25 loss or damage to property of others. No certificate or permit
26 shall be issued to a common or contract carrier or remain in force
27 unless such carrier complies with this section and the rules and

1 regulations prescribed by the commission pursuant to this section.

2 (2) The commission may, in its discretion and under
3 its rules and regulations, require any certificated carrier to
4 file a surety bond, policies of insurance, qualifications as a
5 self-insurer, or other securities or agreements, in a sum to be
6 determined by the commission, to be conditioned upon such carrier
7 making compensation to shippers or consignees for all property
8 belonging to shippers or consignees and coming into the possession
9 of such carrier in connection with its transportation service. Any
10 carrier which may be required by law to compensate a shipper or
11 consignee for any loss, damage, or default for which a connecting
12 motor common carrier is legally responsible shall be subrogated
13 to the rights of such shipper or consignee under any such bond,
14 policies of insurance, or other securities or agreements to the
15 extent of the sum so paid.

16 (3) In carrying out this section, the commission may
17 classify motor carriers and regulated motor carriers taking into
18 consideration the hazards of the operations of such carriers and
19 the value of the household goods carried. Nothing contained in this
20 section shall be construed to authorize the commission to compel
21 motor carriers other than common carriers of household goods to
22 carry cargo insurance.

23 Sec. 14. Section 75-369.03, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 75-369.03 The Superintendent of Law Enforcement and
26 Public Safety may issue an order imposing a civil penalty against
27 a motor carrier transporting persons or property in interstate

1 commerce for a violation of sections 75-348 to 75-358 or sections
2 1 to 8 of this act or against a motor carrier transporting persons
3 or property in intrastate commerce for a violation or violations
4 of section 75-363 or 75-364 based upon an inspection conducted
5 pursuant to section 75-366 in an amount which shall not exceed
6 five hundred dollars for any single violation in any proceeding or
7 series of related proceedings against any person or motor carrier
8 as defined in 49 C.F.R. part 390.5 as adopted in section 75-363.
9 The superintendent shall issue an order imposing a civil penalty
10 in an amount not to exceed ten thousand dollars against a motor
11 carrier transporting persons or property in interstate commerce for
12 a violation of subsection (3) of section 60-4,162 based upon a
13 conviction of such a violation. Upon the discovery of any violation
14 by a motor carrier transporting persons or property in interstate
15 commerce of section 75-307, ~~75-352,~~ 75-363, or 75-364 or sections
16 1 to 8 of this act based upon an inspection conducted pursuant
17 to section 75-366, the superintendent shall immediately refer such
18 violation to the appropriate federal agency for disposition, and
19 upon the discovery of any violation by a motor carrier transporting
20 persons or property in intrastate commerce of section 75-307 based
21 upon such inspection, the superintendent shall refer such violation
22 to the Public Service Commission for disposition.

23 Sec. 15. Section 75-370, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 75-370 Enforcement of sections 75-307 ~~to~~ ~~75-307.03~~ and
26 75-309 shall be carried out by the carrier enforcement division of
27 the Nebraska State Patrol or the Nebraska State Patrol pursuant to

1 the rules and regulations adopted and promulgated by the commission
2 to enforce such sections. Any violation of such sections by any
3 regulated motor carrier, motor carrier, or private carrier shall be
4 referred to the commission for disposition under section 75-156,
5 and the commission may take any other action provided by section
6 75-133.

7 Sec. 16. Section 75-371, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 75-371 Any person, private carrier, common carrier, or
10 contract carrier which operates any motor vehicle in violation of
11 section 75-307~~, 75-307.01, 75-307.02, or 75-307.03~~ or any rule,
12 regulation, or order of the commission pertaining to ~~any of such~~
13 ~~sections~~ such section shall be guilty of a Class IV misdemeanor.
14 Each day of such violation shall constitute a separate offense.

15 Sec. 17. Section 75-386, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 75-386 The Division of Motor Carrier Services shall:

18 (1) Foster, promote, and preserve the motor carrier
19 industry of the State of Nebraska;

20 (2) Protect and promote the public health and welfare
21 of the citizens of the state by ensuring that the motor carrier
22 industry is operated in an efficient and safe manner;

23 (3) Promote and provide for efficient and uniform
24 governmental oversight of the motor carrier industry;

25 (4) Promote financial responsibility on the part of motor
26 carriers operating in and through the State of Nebraska;

27 (5) Administer all provisions of the International Fuel

1 Tax Agreement Act, the International Registration Plan Act, and
2 the single state insurance registration system pursuant to sections
3 75-348 to 75-358 or sections 1 to 8 of this act;

4 (6) Provide for the issuance of certificates of title to
5 apportioned registered motor vehicles as provided for by subsection
6 (6) of section 60-144; and

7 ~~(7) Serve as the agent of the Public Service Commission~~
8 ~~in the filing of proof of insurance by intrastate common, contract,~~
9 ~~and private motor carriers as prescribed by sections 75-307 to~~
10 ~~75-307.03; and~~

11 ~~(8) (7) Carry out such other duties and responsibilities~~
12 ~~as directed by the Legislature.~~

13 Sec. 18. Original sections 75-307 and 75-390, Reissue
14 Revised Statutes of Nebraska, and sections 60-3,137, 60-3,205,
15 66-1406.02, 75-302, 75-369.03, 75-370, 75-371, and 75-386, Revised
16 Statutes Cumulative Supplement, 2006, are repealed.

17 Sec. 19. The following sections are outright repealed:
18 Sections 75-307.01, 75-307.02, 75-307.03, and 75-352, Reissue
19 Revised Statutes of Nebraska.